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VNUS Medical Technologies, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VNUS MEDICAL TECHNOLOGIES, INC.,

Plaintiff,

v.

DIOMED HOLDINGS, INC. and DIOMED
INC.

Defendants.

DIOMED HOLDINGS, INC. and DIOMED,
INC.,

Counterclaimants,

v.

VNUS MEDICAL TECHNOLOGIES, INC.,

Counterdefendant.

CASE NO. C05-02972 MMC

**STIPULATION TO FILE AMENDED
COMPLAINT; ORDER THEREON**

1 WHEREAS VNUS Medical Technologies, Inc. (VNUS") filed a
2 complaint against Diomed Holdings, Inc. and Diomed Inc. ("Diomed") in the
3 above-captioned action on July 21, 2005;

4 WHEREAS Diomed filed an answer and counterclaim against VNUS
5 in the above-captioned action on September 15, 2005; and

6 WHEREAS pursuant to Rule 15(a) of the Federal Rules of Civil
7 Procedure, the parties now wish to stipulate that VNUS may file the amended
8 complaint attached hereto as Exhibit "A," and lodged concurrently herewith.

9 NOW, THEREFORE, by and through their respective undersigned
10 counsel of record, the parties stipulate that VNUS' First Amended Complaint
11 lodged concurrently herewith may be filed.

12 Dated: October 4, 2005

LATHAM & WATKINS LLP

13 By [Signature]
14 Mark A. Finkelstein
15 Attorneys for Plaintiff and
16 Counterclaimant Defendant VNUS
17 Medical Technologies, Inc.

18 Dated: September 21, 2005

COBLENTZ, PATCH, DUFFY & BASS
LLP

19 By [Signature]
20 Howard A. Slavitt
21 Attorneys for Defendants and
22 Counterclaimants Diomed Holdings,
23 Inc. and Diomed, Inc.
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ORDER

Good cause appearing, the foregoing stipulation is approved. The First Amended Complaint shall be accepted for filing. Plaintiff shall file the First Amended Complaint no later than October 21, 2005.

Dated: October 11, 2005


United States District Court Judge